

HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 195

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

AN ACT

RELATING TO THE ENVIRONMENT; ENACTING A NEW SECTION OF THE AIR
QUALITY CONTROL ACT TO PROVIDE FOR REGULATION OF SOURCES OF
EMISSIONS THAT CAUSE THE FORMATION OF OZONE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Air Quality Control Act
is enacted to read:

"[NEW MATERIAL] DUTIES AND POWERS OF ENVIRONMENTAL
IMPROVEMENT BOARD AND LOCAL BOARD FOR ATTAINMENT AND
MAINTENANCE OF NATIONAL AMBIENT AIR QUALITY STANDARDS FOR
OZONE.--

A. If the environmental improvement board or the
local board determines that emissions from sources within its
jurisdiction cause or contribute to ozone concentrations in
excess of ninety-five percent of a national ambient air quality

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1 standard for ozone, it shall adopt a plan, including
2 regulations, to control emissions of oxides of nitrogen and
3 volatile organic compounds to provide for attainment and
4 maintenance of the standard. Regulations adopted pursuant to
5 this section shall be limited to sources of emissions within
6 the area of the state where the ozone concentrations exceed
7 ninety-five percent of the national ambient air quality
8 standard.

9 B. Notwithstanding the limitations in Section
10 74-2-5 NMSA 1978, the environmental improvement board or the
11 local board may adopt standards of performance for sources of
12 emissions for which no federal standard of performance has been
13 adopted and may adopt standards of performance more stringent
14 than federal standards of performance for sources for which a
15 federal standard of performance has been adopted. The
16 standards of performance shall reflect the degree of emission
17 limitation achievable through the application of control
18 technology that is reasonably available considering
19 technological and economic feasibility. The standards of
20 performance may be more stringent than applicable federal
21 standards of performance if the board determines that the
22 federal standards of performance do not reflect the degree of
23 emission limitation achievable through the application of
24 control technology that is reasonably available, considering
25 technological and economic feasibility, and that methods to

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1 further reduce emissions are commercially available and will
2 result in substantially greater reductions in emissions than
3 the federal standards for such sources.

4 C. In adopting regulations, the environmental
5 improvement board or the local board shall consider the
6 following:

7 (1) the public interest, including the social
8 and economic value of the sources of emissions and subjects of
9 air contaminants;

10 (2) previous experience with equipment and
11 methods available to control the air contaminants involved;

12 (3) energy, environmental and economic impacts
13 and other social costs;

14 (4) efforts by sources of emissions to reduce
15 emissions prior to the effective date of regulations adopted
16 under this section; and

17 (5) for existing sources of emissions, the
18 remaining useful life of any existing source to which the
19 regulation would apply.

20 D. No regulation adopted pursuant to this section
21 shall require emission reductions for sources that between
22 March 25, 2004 and January 1, 2009:

23 (1) implemented and are operating reasonable
24 control measures, considering technological and economic
25 feasibility, that result in quantifiable reductions for

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1 emission of oxides of nitrogen or volatile organic compounds;
2 or

3 (2) are mandated by other requirements
4 enforceable by the department or the local authority to
5 implement reductions in emissions of oxides of nitrogen or
6 volatile organic compounds."

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